

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VIVECA SANAI, an individual, CYRUS
SANAI, an individual, FREDRIC SANAI, an
individual, INGRID SANAI BURON, an
individual, and DARIA SANAI, an
individual,

Plaintiffs,

v.

SASSAN SANAI, an individual, MARY
LYNN McCULLOUGH, an individual,
INTERNAL MEDICINE & CARDIOLOGY,
INC., a Washington corporation, and DOES 1
through 10,

Defendants.

CYRUS SANAI, an individual, and
FREDRIC SANAI, an individual,

Plaintiffs,

v.

SASSAN SANAI, an individual, MARY
LYNN McCULLOUGH, an individual,
INTERNAL MEDICINE & CARDIOLOGY,
INC., a Washington corporation, WILLIAM
SULLIVAN, an individual, and MARSH
MUNDORF PRATT SULLIVAN AND
MCKENZIE, a partnership,

Defendants.

No. C02-2165Z

MINUTE ORDER

1 The following Minute Order is made by direction of the Court, the Honorable Thomas
2 S. Zilly, United States District Judge:

3 (1) The Court, having reviewed the Memorandum of the Ninth Circuit, Sanai v.
4 Sanai, No. 03-35797 (9th Cir. 2005), and the briefs of the parties, docket nos. 723, 725, 726,
5 727, and 730, hereby exercises its discretion to retain subject matter jurisdiction over this
6 case for the reasons stated below.

7 This Court had subject matter jurisdiction over this case when it commenced. There
8 is no dispute that this Court had federal question jurisdiction over the Plaintiffs' wiretapping
9 claim under 18 U.S.C. § 2511 and ERISA claims under 29 U.S.C. §§ 1109(a), 1132(a)(3).
10 See Pl.'s Third Amended Compl., docket no. 145. Likewise, this Court had supplemental
11 jurisdiction over Plaintiffs' state law claims and Defendants' counterclaims. See 28 U.S.C. §
12 1367 (district courts shall have supplemental jurisdiction over all other claims that are so
13 related to claims in the action within such original jurisdiction that they form part of the
14 same case or controversy under Article III). The only question is whether the Court can and
15 should retain jurisdiction now that the federal question claims have been dismissed.

16 In Brady v. Brown, the Ninth Circuit held that "[t]he decision to retain jurisdiction
17 over state law claims is within the district court's discretion, weighing factors such as
18 economy, convenience, fairness, and comity." 51 F.3d 810, 816 (9th Cir. 1995). The
19 Defendants' remaining counterclaims relate to the Plaintiffs' original claims and conduct in
20 this case. For example, the Defendants maintain claims under RCW 4.24.510 (party
21 prevailing with immunity for communications to government officials defense entitled to fees
22 and \$10,000), RCW 4.84.185 (party prevailing against frivolous/unreasonable claims entitled
23 to reasonable expenses), F.R.C.P. 11, slander of title for filing of lis pendens, and abuse of
24 process for filing of lis pendens. The discretionary factors also weigh in favor of retaining
25 jurisdiction. First, this Court addressed the Plaintiffs' underlying claims and is familiar with
26 the issues. Second, this Court's pending ruling on the 28 U.S.C. 1927 sanctions will affect
the Defendants' counterclaims for attorneys' fees and costs under other statutes, meaning
this Court will remain in the best position to deal with those claims. Finally, as a matter of
comity, it would be inappropriate to inflict this case on any state court at this late date. For
all of these reasons, the Court exercises its discretion to retain subject matter jurisdiction
over this case.

(2) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

Filed and entered this 1st day of November, 2005.

BRUCE RIFKIN, Clerk

s/ Casey Condon

By _____
Casey Condon
Deputy Clerk